

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/80

NAME OF APPLICANT: Teresa Cave

ADDRESS FOR CORRESPONDENCE: c/o Patrice Connolly, Hartley Bridge House, Ticknevin, Co. Kildare

NATURE OF APPLICATION: Request for Declaration Under Section 5 of the Planning & Development Act 2000, as amended as to whether or not 1) extend house by 20m<sup>2</sup> to the rear and 2) erect a front porch of 2m<sup>2</sup> is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Mucklagh, Tullamore, Co. Offaly, R35 YE10.

WHEREAS a question has arisen as to whether or not 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> is or is not development and is or is not exempted development at Mucklagh, Tullamore, Co. Offaly, R35 YE10.

AS INDICATED on the particulars received by the Planning Authority on the 18th July 2024 and 21st August 2024.

AND WHEREAS Teresa Cave has requested a declaration on the said question from Offaly County Council.

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to -

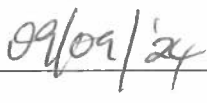
- Section 2(1), 3(1), 4(2)(a) of the Planning and Development Act 2000 (as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Schedule 2, Part 1, Exempted Development -, Class 1, Class 7 and Class 50.

AND WHEREAS Offaly County Council has concluded that the proposed works 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> and all associated site works is development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the proposed works 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> and all associated site works at Mucklagh, Tullamore, Co. Offaly R35 YE10 is **development and is exempted development**.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

  
\_\_\_\_\_  
Administrative Officer

  
\_\_\_\_\_  
Date

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.



## OFFALY COUNTY COUNCIL

### Planning Report

#### Section 5 Declaration

<b>File Reference:</b>	Dec 24/80
<b>Question:</b>	Whether or not, 1) extend house by 20m <sup>2</sup> to the rear, and 2) Erect a front porch of 2m <sup>2</sup> is or is not development and is or is not exempted development.
<b>Applicant:</b>	Teresa Cave
<b>Correspondence address:</b>	c/o Patrick Connolly, Hartley Bridge House, Ticknevin, Co. Kildare.
<b>Location:</b>	Mucklagh, Tullamore, Co. Offaly, R35 YE10.
<b>Date received:</b>	18 <sup>th</sup> July 2024

#### *Second report*

### 1. Introduction

The question has arisen as to whether the following proposed works: 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> is, or is not, development and is, or is not, exempted development.

### 2. Review of Further Information

Further information (FI) was sought by the Planning Authority on 13<sup>th</sup> August 2024 and subsequently received by the Planning Authority on the 21<sup>st</sup> August 2024.

This report should be read in conjunction with the previous planner's report dated 13<sup>th</sup> August 2024. The following FI was sought, and the response is as follows:

1.

*Having regard to the conditions and limitations of Class 1 (Development within the curtilage of a house) of Schedule 2 – Exempted Development, Part 1 of the Planning and Development Regulations 2001 (as amended), and in particular, limitation 2(a), the Applicant is required to submit the following:*

- (a) *Confirmation of the gross floor area of the existing extension to the dwelling and please also indicate when the existing extension was built and when the original dwelling was constructed.*

The Applicant has supplied a sworn statement confirming the following:

- (a) The house was constructed in 1940.
- (b) The floor area of the original house was 91.97m<sup>2</sup>.
- (c) The house was extended by 19m<sup>2</sup> in 1961.
- (d) The floor area on this date is 110.97m<sup>2</sup>.

### 3. Evaluation

Having considered the FI response and having particular regard to the conditions and limitations provided for under *Class 1, Schedule 2, Part 1, Exempted Development - General, Development within the curtilage of a house*, of the *Planning and Development Regulations 2001 (as amended)*, it is the view of the Planner that the proposed works are exempted development and do not require planning permission.

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the *Planning and Development Regulations (2001) as amended*. Furthermore, it is not a sub-threshold development. Accordingly, an Environmental Impact Assessment Report is not required.

#### **4. Conclusion**

Having assessed the Further Information received and the previous planning report on file, it is considered that the proposed works at the subject site **is development and is exempted development.**

**Development and Exempted Development**

**Section 5 of the Planning and Development Act 2000 (as amended)**

**WHEREAS** a question has arisen as to whether or not 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> is or is not development and is or is not exempted development at Mucklagh, Tullamore, Co. Offaly, R35 YE10.

**AS INDICATED** on the particulars received by the Planning Authority on the 18<sup>th</sup> July 2024 and 21<sup>st</sup> August 2024,

**AND WHEREAS** Teresa Cave has requested a declaration on the said question from Offaly County Council;

**AND WHEREAS** Offaly County Council, in considering this declaration request, had regard particularly to -

- (a) Section 2(1), 3(1), 4(2)(a) of the *Planning and Development Act 2000 (as amended)*.
- (b) Article 6 of the *Planning and Development Regulations 2001 (as amended)*.
- (c) Schedule 2, Part 1, Exempted Development -, Class 1, Class 7 and Class 50.

**AND WHEREAS** Offaly County Council has concluded that the proposed works 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> and all associated site works is **development** and is **exempted development**.

**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the *Planning and Development Act 2000 (as amended)*, hereby decides that the proposed works 1) extend house by 20m<sup>2</sup> to the rear, and 2) Erect a front porch of 2m<sup>2</sup> and all associated site works at Newtown, Co. Offaly, R35PN50 is **development** and is **exempted development**.

*Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.*



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Enda Finlay  
Graduate Planner

21<sup>st</sup> August 2024



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Ed Kelly

Date 9<sup>th</sup> September 2024

ASEP

**APPENDIX 1**  
**APPROPRIATE ASSESSMENT SCREENING**  
**REPORT FOR PLANNING APPLICATIONS**



Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

**Planning Authority:** Offaly County Council


**Planning Application Ref. No.:** DEC 24/80

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not, 1) extend house by 20m <sup>2</sup> to the rear, and 2) Erect a front porch of 2m <sup>2</sup> is or is not development, and is or is not exempted development.		
Site location:	Mucklagh, Tullamore, Co. Offaly, R35 YE10.		
Site size:	n/a	Floor Area of Proposed Development:	22m <sup>2</sup> (total)
Identification of nearby European Site(s):	Charleville Wood SAC 0.36km		
Distance to European Site(s):	As above – all as crow flies		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the European site:	None		
Is the application accompanied by an EIAR?	No: <b>X</b>		
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
<b>Charleville Wood SAC – Features of interest include:</b> <b>SAC – Qualifying interest include:</b> Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0]			





Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]	
The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the European site synopses and, if applicable, a Conservation Management Plan; all available on <a href="http://www.npws.ie">www.npws.ie</a> ) <b>(ATTACH INFO.)</b>	
<b>SITE NAME:</b> Charleville Wood SAC <b>Site Code:</b> 000571 <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000571.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000571.pdf</a>	
<b>(C) NPWS ADVICE:</b>	
Advice received from NPWS over phone:	None Received
Summary of advice received from NPWS in written form <b>(ATTACH SAME):</b>	None Received
<b>(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:</b>	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</i>	
If the answer is 'yes' to any of the questions below, then the effect is significant. <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i>	
<b>Would there be...</b> ... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	Not likely due to the location and type of development. The site is sufficient distance from the European site.
... a reduction in habitat area on a European site?	There will be no reduction in the habitat area. The site is sufficient distance from the European site.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?	Not likely due to the location and type of development The site is sufficient distance from the European site.
... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?	Not likely due to the location and type of development The site is sufficient distance from the European site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?	None likely due to the location and type of development. The site is sufficient distance from the European site.
Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to European sites and identify them].	No other plans/projects known of in the vicinity of the site. The site is sufficient distance from the European site.

Simply stating that there are no cumulative impacts' is insufficient.		
<b>(E) SCREENING CONCLUSION:</b>		
<b>Screening can result in:</b>		
1.	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>	
2.	<i>No potential for significant effects / AA is not required.</i>	
3.	<i>Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement from the applicant or reject the project. Reject if too potentially damaging / inappropriate.</i>	
Therefore, does the project fall into category 1, 2 or 3 above?		Category 2
Justify why it falls into relevant category above:		There would be no likely significant impacts on the nearest European site from the proposed development due to the scale of the proposed development and the separation distance between the subject site and the European Site.
Name:		
Position:	Graduate Planner	Date: 21 <sup>st</sup> August 2024

Given the location, the nature, and size of the development applied for, and the characteristics of European sites in the vicinity, it is considered that 500 metres should be used as a potential zone of impact of the project, in accordance with section 3.2.3 of the appropriate assessment guidelines.

The nearest European site is 0.36km from the proposed development, but, due to the development's nature and scale, it is highly unlikely that there will be any significant effects on the nearest European site, either alone, or in combination with other plans and projects.